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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,197	07/08/2003	Robert L. Walker	WALKER 1	8026

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07/12/2004

John H. Thomas, P.C.
1561 East Main Street
Richmond, VA 23219

EXAMINER

WRIGHT, ANDREW D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,197

Applicant(s)

WALKER, ROBERT L.

Examiner

Andrew Wright

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hewitt (US 6,612,775) in view of Unkle (US 6,612,775). Hewitt discloses a boat lift. First corner posts are the combination of members (16, 58, 64). Second corner posts are member (70). Longitudinal beams (50) are carried by the corner posts. Transverse beams (54, 56) are carried by the longitudinal beams. Cradle (12) is pivotally carried by the base. Cylinder assemblies (76) each have one end connected to the cradle at (86) and another end connected to the first post at (74). The cylinders housings (78) are the end that is connected to the posts, and at all times are above the waterline (column 3, line 51). The cylinders rotate the cradle from the lowered position shown in figure 2 to the raised position shown in figure 1. During rotation, a portion of the cradle rotates upward and past the axle (60) at arm (54). The raised lift position depicted in figure 1 shows the cradle over the center of the base. Therefore the cradle is overcenter. Hewitt does not disclose bunks on the cradle. Bunks are common and well known in boat lifts for the purpose of providing a stable and non-abrasive support for the boat. Unkle, like Hewitt, shows a boat lift with a base and a pivotable cradle. Unkle shows carpeted bunks (48) on the cradle. Therefore it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify Hewitt by adding bunks as taught by Unkle. The motivation would be to provide a stable and non-abrasive support for the boat on the lift.

3. Regarding claim 2, Hewitt shows retainers (60) that are mounted on the bracket portion (58) of the first corner posts. The retainers support the cradle in the raised position.

4. Regarding claim 3, Unkle shows that the bunks can be mounted at an angle relative to the cradle for the purpose of enhancing draining of the boat resting thereon (column 2, lines 20-21). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Hewitt by angling the bunks as taught by Unkle. The motivation would be to enhance draining of the boat resting thereon.

5. Regarding claim 4, the Hewitt actuators are bi-directional hydraulic cylinders (76).

6. Regarding claim 5, the cylinders have rods (80) that are extensible and retractable. Rotation of the cradle upward to the raised position is achieved by retracting the rod into the cylinder.

7. Regarding claim 6, the rods are completely retracted when the cradle is in the raised position (figure 1).

8. Regarding claim 7, each post has a telescoping leg (figure 1).

9. Regarding claim 8, the actuators, both cylinder housing and rod, are above the water when the cradle is in the raised position.

10. Regarding claim 9, Hewitt in view of Unkle as described above reads on the claim. Hewitt shows a hydraulic cylinder (76) comprising a housing (78) and a rod (80). One end of the cylinder is connected to the base. The rod is connected on one end to the cradle. The rod is moveable between an extended position (Hewitt, figure 2) and an retracted position (Hewitt, figure 1). In the retracted position the rod is substantially within the cylinder housing. In the extended position the rod is substantially outside the cylinder housing. The cradle is raised when the rod is in the retracted position. The hydraulic cylinder is above the water when the rod is in the retracted position.

Response to Arguments

11. Applicant's arguments filed 4/30/04 with respect to claims 1-8 have been fully considered but they are not persuasive. Applicant argues that Hewitt does not show actuator connected each on one end to the pivoting cradle and on the other end to one of the corner posts. Specifically, applicant argues that the Hewitt cylinder is attached not on its end but rather somewhere in the middle of its length (Remarks of 4/30/04, page 6, lines 3-7). In response it is noted that the recitation "connected on one end" is a broad recitation. It is broad enough that three interpretations of Hewitt reasonably read on the claim. First, each Hewitt actuator comprises a housing (78) and a piston (80). It is not argued that the end of the piston that is attached to the cradle constitutes an end of the actuator. Each housing (78) has a first end pivotally connected to the post (64) and a free standing second end (see figure 4). Since the actuator comprises the housing, each end of the housing constitutes an end of the actuator. The claim does

not specify anything more than an end. The end of the Hewitt housing, although intermediate the length of the actuator as a whole, nonetheless constitutes an end.

12. In the second alternative, the Hewitt housing (78), as a unit, comprises a first extremity of the actuator and therefore constitutes a first end. The piston, as a unit, comprises a second extremity of the actuator and therefore constitutes a second end. A connection anywhere along the housing (78) meets the broad recitation of "connected on one end". And a connection anywhere along the piston meets the recitation of "connected ... on its other end".

13. In the third alternative, it can be said that the end of the actuator is the free standing end of the Hewitt housing. The free standing end of the housing is connected to the post via the body of the housing. The claim does not recite a direct connection.

14. Therefore it is asserted that the Hewitt actuator contains the limitations recited in claim 1.

15. Applicant next argues that Hewitt does not have actuators that rotate the cradle to a raised lift position that is overcenter (Remarks, page 6, lines 21-23). In response it is noted that the raised lift position depicted in figure 1 of Hewitt shows the cradle over the center of the base. Therefore the cradle is overcenter. Alternatively, Hewitt's cradle can be stopped at any position along the arcuate path, including where the legs (26, 28) are slightly angularly offset in the counterclockwise direction when viewed as in figure 1 from a vertical axis defined by the longitudinal axis of post (64). Such a position is a raised position for the cradle because it is higher than other possible positions of the cradle. Such a position is overcenter because it is a few degrees counterclockwise past

vertical. The claim language does not define a frame of reference for the rotation or the term "overcenter" and so this interpretation falls within the broad recitation. Either way, applicant's argument is not persuasive.

16. Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

18. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for

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official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

Handwritten signature and date 7/1/04.